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vided that D and its agents should have free access to the meters and service for purposes of examination. X, an employee of D, entered P's house without rapping and without announcing his presence for the purpose of reading the meter, and seriously frightened P who was unaware of his entry. *Held,* D, was liable for injury to inmate through fright. *Mollinaux* v. *Union Electric Co.,* (Mo., 1921) 227 S. W. 265.

While the court conceded that the agents of D under the terms of the contract had a license, the liability of D was predicated on its abuse by D's agents, since ordinary prudence and a wholesome regard for the sanctity of the home requires that no entrance be made without announcing one's presence. In *Hitchcock* v. *Hudson Gas Co.,* 71 N. J. L. 565, D's agent having been refused admittance to remove a meter, subsequently returned and broke into P's home, and it was held that D was not liable since he acted under a license. But in *Reed* v. *New York Gas Co.,* 87 N. Y. S. 810, D was held liable for breaking into P's cellar in order to remove the meter on the ground that, as in the principal case, an abuse of a license renders one a trespasser *ab initio;* but the case may be distinguished from the New Jersey decision on the ground that it does not appear from the report that the agent had previously requested admittance. As to whether damages should be recoverable when resulting from fright, in an analagous case a trespassing meter reader was held to render his master liable for damages resulting from mental anguish. *Bouillion* v. *Laclede Gas Co.,* 148 Mo. App. 462. It would seem that where the cause of the mental suffering is the trespass on P's property, recovery should be allowed. *Watson* v. *Dilts,* 116 Ia. 249; 17 MICH. L. REV. 407; 34 HARV. L. REV. 280.

TRIAL—INSTRUCTION TO FIND THE DEFENDANT GUILTY IN A CRIMINAL CASE.—The defendant was indicted for selling liquor contrary to the local option law. The evidence for the state was uncontradicted and the judge instructed the jury that it was their duty to find the defendant guilty. *Held,* no error. *People* v. *Berridge* (1921), 212 Mich. 577.

It is generally held to be error to direct a verdict of guilty in a criminal case under any circumstances. *Lucas* v. *Commonwealth,* 118 Ky. 818; *Perkins* v. *State,* 50 Ala. 154. And there are but few recognized exceptions to this rule. In Michigan a long line of decisions has established the right of the court to instruct the jury to return a verdict of guilty in cases where no question of intent is involved. *People* v. *Neumann,* 85 Mich. 98 (selling liquor to a minor); *People* v. *Elmer,* 109 Mich. 493 (disorderly conduct). But the judge cannot discharge the jury and enter a verdict of guilty, nor can he coerce the jury into returning such a verdict. *People* v. *Warren,* 122 Mich. 504. Arkansas allows the direction of a verdict of guilty where the offense is a mere misdemeanor punishable by fine. *Stelle* v. *State,* 77 Ark. 441. As to the rule in the United States courts, see 19 MICH. L. REV. 325.

TRIAL—QUOTIENT VERDICT.—Amount that each juror thought the plaintiff should recover was set down and these then added and the average found. After a motion made by one juror to make it even money, leaving off $83 and

some odd cents, the sum of $11,700 was adopted as the verdict. There was a discussion by the jury as to a quotient verdict's illegality and testimony that for this reason the exact amount of quotient was not returned. However, there was a disagreement in the evidence, and a conflict in the testimony given by the jurors impeaching the verdict as to whether the average was to be final and binding or merely for ascertaining a basis for discussion. *Held,* since not clearly shown, the verdict was binding, it was not a quotient verdict and was good. *Smith* v. *Hines,* (Kans., 1921), 194 Pac. 318.

A prior Kansas case, *Johnson* v. *Husband,* (1879) 22 Kan. 277, held that though there was conflict in the testimony of the jurors as to a previous binding agreement, since at least four of the jurors believed that the quotient finally obtained by such marking, aggregation and division, should be their verdict, it should be set aside on proper motion. It is enough to vitiate the verdict if the greater number of the jury agreed that the quotient was to be binding even though all did not. *Sylvester* v. *Town of Casey* (1900), 110 Ia. 256. Where all the jury make such an agreement the verdict is void. *Werner* v. *Edmiston* (1880), 24 Kan. 147. Other cases are cited in Ann. Cas. 1917 C 1224. The verdict is void where all agree, even though a nominal sum is later added without deliberation to make the amount an even number. *Ottawa* v. *Gilliland* (1901), 63 Kan. 165. *Whisenant* v. *Schawe* (Tex., 1911), 141 S. W. 146. In the case of *Clark* v. *Ford* (1900), 10 Kan. App. 579, the court decided that a verdict which is more nearly the result of a mathematical calculation than the deliberate judgment of the jury, cannot stand. But the polling of the jury was held to repel any presumption of a quotient verdict, though the amount was the same on the second verdict, which the judge had caused the jury to bring in after returning to the jury room, because they had admitted to him that the first had been arrived at by addition and division. *Roy* v. *Goings* (1885), 112 Ill. 656. If after the quotient is obtained and due deliberation it is returned as a just verdict, it is not legally objectionable. *Battle Creek* v. *Haak* (1905), 139 Mich. 514. Other cases may be found in 16 Ann. Cases, 911. But the court ought not to suggest such a proceeding to the jury. *Kansas City R. R. Co.* v. *Ryan* (1892), 49 Kan. 1. The majority of courts follow the cases cited above, that this manner of arriving at the verdict is in itself illegal, but it has been decided that it does not necessarily follow that it must be set aside, and the verdict may be legal as long as moderate in amount and no extravagant abuse is shown. *Cleland* v. *Borough of Carlisle* (1898), 186 Pa. St. 110. *Cowperthwaite* v. *Jones* (1790), 2 Dall. 55. It would seem that the court in the principal case might well have been governed by the previous rulings of the same court in *Johnson* v. *Husband* or *Ottawa* v. *Gilliland, (supra)*, but it left the matter of evidence to the trial court properly and found that a prior agreement was not shown. It might be noted that such a case would not arise in the United States courts, since *McDonald* v. *Pless* (1915), 238 U. S. 264, which ruled that because of the controlling consideration of public policy, a juror might not impeach his own verdict, even though the court found there had actually been a quotient verdict. See *Roy* v. *Goings, (supra)*, for the same rule, and *Flanagan* v. *Coleman* (1918), 255 Fed. 178.